

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOHNNY SPENCER,	)	
Plaintiff,	)	
vs.	)	No. 3:05-CV-1161-H
	)	
PAM SCHAEFER, et al.,	)	
Defendants.	)	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to the provisions of 28 U.S.C. § 636(b), and an Order of the Court in implementation thereof, subject cause has previously been referred to the United States Magistrate Judge. The findings, conclusions, and recommendation of the Magistrate Judge are as follows:

I. BACKGROUND

On June 6, 2005, plaintiff filed a “complaint” that purports to remove or commence criminal proceedings. On July 13, 2005, the Court issued a Notice of Deficiency and Order (NOD) because the “complaint” did not comply with Fed. R. Civ. P. 8(a); therein, the Court granted plaintiff thirty days to submit an amended complaint that complies with the requirements of Rule 8(a). It directed that “[s]uch amended complaint shall specifically identify all defendants in this action, the claims asserted against each named defendant, and the basis for this Court’s jurisdiction.”

On July 25, 2005, plaintiff filed an objection to the NOD. He “objects to the Court’s attempt to get it [sic] to give a self incriminating statement.” He requests “reconsideration of Notice or permission to appeal to the Court of Appeal.” He also “reserves the right to amend and supplement as justice will require.” Other than his objections, he has filed nothing else in this case subsequent to the NOD.

## II. INVOLUNTARY DISMISSAL

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss an action *sua sponte* for failure to prosecute or follow orders of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court's inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-31 (1962). Plaintiff has failed to comply with an order of the Court that he file an amended complaint that complies with Fed. R. Civ. P. 8(a). He has provided no basis for this Court's jurisdiction. The Court, furthermore, can discern no basis for this Court's jurisdiction from plaintiff's complaint. Although he purports to remove unidentified state criminal proceedings to this Court, he fails to comply with the requirements for removal. See 28 U.S.C. § 1446. Accordingly, the Court should dismiss this action pursuant to Rule 41(b).

## III. RECOMMENDATION

For the foregoing reasons, it is recommended that plaintiff's complaint be dismissed without prejudice for the failure of plaintiff to follow an order of the Court.

SIGNED this 8th day of September, 2005.

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND  
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on all parties by mailing a copy to each of them. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. Failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (*en banc*).

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE